THE HON'BLE SRI JUSTICE K.C. BHANU

On Thursday, the twenty second day of September

Two thousand and five.

W.P. NO.15725 of 2004

G.Shankaraiah

…….Petitioner.

And

The Regional Manager, APSRTC, Hyderabad, JBS, Picket, Secunderabad and others. ……Respondents.

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O R D E R:

This writ petition is filed by the petitioner challenging the proceedings of the first respondent in imposing the punishment by proceedings No.PA/20(55)2003-HCR dated 3.11.2003and declare the same as illegal and arbitrary.

2) The brief facts of the petitioner's case which are relevant to adjudicate in this writ petition are that while working as conductor in the respondent-

corporation the petitioner was charge sheeted for the charge that he had collected totally Rs.7/- from a batch of two lady passengers at their boarding point and failed to issue tickets on 4.5.2005. Thereafter, he had submitted his explanation as called for by the corporation and faced enquiry. Basing on the enquiry report, he was removed from service, as per the proceedings of the 2nd respondent dated 15.1.2003, against which the petitioner preferred an appeal wherein the impugned Order passed by the 1st respondent held that the petitioner shall be reinstated into service as conductor Grade-I duly reducing his pay by two incremental stages for a period of two years which shall have the effect of postponement of his future increments and treating the period from the date of removal till date of his reporting for duty at the unit posted on reinstatement as 'not on duty' for all purposes. The petitioner pleads that the punishment imposed in the impugned proceedings is multiple punishment and prayed to set aside the impugned order.

3) The learned counsel for the petitioner contended that the imposition of punishment is multiple and which is arbitrary and illegal and therefore he contended that the double punishment should not be imposed. Hence he prays to allow the writ petition.

4) On the other hand, the learned standing counsel for the respondents contended that considering the past service of the petitioner, the Regional Manager, took a lenient view and ordered for re-instatement, such a punishment cannot be interfered and hence prays to dismiss the writ petition.

5) For certain irregularities said to have been committed by the petitioner, a charge sheet was issued and an explanation of the petitioner was called for. As the explanation was not satisfactory, a regular departmental enquiry was ordered. The enquiry officer came to the conclusion that the petitioner having collected totally Rs.7/- from a batch of two lady passengers and failed to issue tickets and found the charge leveled against the petitioner was proved. Accepting the said findings of the enquiry officer, a show cause notice was given and the explanation for the show cause notice was not

satisfactory, the disciplinary authority passed the order dated 15.1.2003, imposing the punishment for removal from the service. The appeal was also confirmed.

6) Then the petitioner had filed revision before the Regional Manager. The Regional Manager, by his order dated 3.11.2003, ordered for reinstatement into service as Conductor Grade-I, duly reducing his pay by two incremental stages for a period of two years, which shall have the effect of postponement of his future increments and he should pay fresh security deposit and produce valid conductor licecse. The period from the date of removal till date of his reporting for duty at the Unit posted on reinstatement shall be treated as 'not on duty' for all purposes. Challenging the same the present writ petition is filed.

7) There cannot be any dispute that it is the disciplinary authority and on an appeal the appellate authority are the fact finding authorities to determine the mis-conduct of the petitioner and impose appropriate punishments. The action of the disciplinary authority can be interfered with if the satisfaction recorded is demonstratively perverse based on no evidence, misreading of evidence. Therefore, the scope of judicial review of administrative orders is rather limited. The consideration is limited to the legality of decision-making process and not legality of the order per se. The test is to see whether there is any infirmity in the decision-making process and not in the decision itself.

8) The charge leveled against the petitioner is that for having collected totally Rs.7/- from a batch of two lady passengers at their boarding point i.e. Nampally who were found alighting without tickets at the time of check at Andhra Yuvathi Mandal ex-stages 8 to 5 and failed to issue tickets despite collecting requisite fare, which constitute mis conduct in terms of Regulations No.28(vi-a) and (xxxi) of A.P.S.R.T.C. Employees (Conduct) Regulations, 1963. The procedure in conducting the enquiry by the enquiry officer and that the finding of the fact finding officer are based upon the same evidence and that the principles of natural justice have been followed in conducting enquiry and due opportunity was given to the petitioner in the course of enquiry are not

specifically denied or disputed. It is not the case, there the findings are not based upon any evidence at all. Therefore, under no stretch of imagination, it cannot be said that findings are perverse.

9) The only contention raised by the learned counsel for the petitioner is that punishment imposed by the Revisional Authority in reducing the pay by two increments stages for a period of two years which shall have the effect of postponement of future increments and that he shall pay fresh security deposit and that the period from the date of removal till date of his reporting for duty at the unit posted on reinstatement shall be treated as 'not on duty' for all practical purposes is nothing but double punishment. The order of disciplinary authority ought not have interfered with by the Regional Manager who is Revisional Authority. It is a case of seriousness irregularities, having collected the amount from the passenger, the petitioner failed to issue ticket. The reason is obvious. The trust reposed on the conductor by the Corporation is shaken. Therefore, the disciplinary authority rightly imposed a proper punishment, which in proportionate to the proved mis-conduct. But the revisional authority on humanitarian grounds took a lenient view, so that the petitioner can be mend his ways and imposed the punishment. The petitioner has not shown that the punishment imposed by the revisional authority is contrary to the service regulations of the petitioner. Therefore, under no stretch of imagination it can be said that it is a double punishment. The period of removal till the date of reporting duty on re-instatement has to be regulated while regulating the period as not on duty. The revisional authority has to pass appropriate orders. Therefore, the revisional authority had treated the period that as 'not on duty' for all purposes insofar as imposing the punishment by reducing his pay by two incremental stages for a period of two years which shall have the effect of postponement of his future increments cannot be said to be the punishment contrary to the punishments provided under the service regulations of the petitioner.

10) Therefore, the petitioner indulged in pure speculation and the writ petition is devoid of merits and is dismissed. No order as to costs.

Justice K.C.BHANU.

22nd September 2005.

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